IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1908 of 1991

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SANGITABEN P. PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1908 of 1991

MR JIVANLAL M PATEL for Petitioner No. 1

MR PRADIP BHATE, LD.AGP for Respondents

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 01/09/2004

ORAL JUDGEMENT

1. The petitioner by way of this petition has challenged the order dated 2nd February, 1991, at Annexure "C" to the petition, whereby the compassionate appointment of the petitioner was cancelled on the ground that after getting appointment in 1988 on compassionate ground she has married with one Shri P.B.Chavda, Taluka Development Officer, Kalol, in May 1990, and on that ground she was relieved from service on 2nd February,

1991. The petitioner has challenged the said action of the respondent by way of this petition.

2. While admitting this matter, this Court has restrained the respondents from implementing the order dated 2nd February, 1991, at Annexure "C" to the petition.

3. Mr.Patel, learned advocate for the petitioner has submitted that the impugned order passed was in gross violation of principle of natural justice inasmuch as notice was not issued and there is no prohibition for second marriage in the Government policy.

4. Mr.Pradip Bhate, learned AGP for the respondents has submitted that the very purpose of granting compassionate appointment was to give support to the family of the deceased. In my view, the order of the respondents is required to be quashed and set aside only on the ground of violation of principle of natural justice inasmuch as no notice was issued and nothing is shown on record in the appointment order that there was a condition that she will not be eligible for remarriage. Apart from the aforesaid fact, only on the ground of violation of principle of natural justice, the petition is allowed. The impugned order dated 2nd February, 1991, passed by the respondents at Annexure "C" to the petition is quashed and set aside. Rule is made absolute to the aforesaid extent. No order as to costs.

(K.S. Jhaveri, J.)

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